



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/568,353	11/27/2006	Franz Ulrich Brockhoff	07130.0007.PCUS00	3359
22930	7590	03/28/2008	EXAMINER	
HOWREY LLP C/O IP DOCKETING DEPARTMENT 2941 FAIRVIEW PARK DR, SUITE 200 FALLS CHURCH, VA 22042-2924				BLACK, MELISSA ANN
ART UNIT		PAPER NUMBER		
3612				
		MAIL DATE		DELIVERY MODE
		03/28/2008		PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/568,353	BROCKHOFF ET AL.
	<b>Examiner</b>	<b>Art Unit</b>
	MELISSA A. BLACK	3612

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on \_\_\_\_.
- 2a) This action is **FINAL**.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-11 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_ is/are allowed.
- 6) Claim(s) 1-3 is/are rejected.
- 7) Claim(s) 4-11 is/are objected to.
- 8) Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 14 February 2006 is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. ____ .
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)	5) <input type="checkbox"/> Notice of Informal Patent Application
Paper No(s)/Mail Date <u>2/28/08</u> .	6) <input type="checkbox"/> Other: ____ .

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-3 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1, claim language such as "an excess number of" renders the claim indefinite.

Claim 2, "n links" and "n-1 links" and also "can be" render the claims indefinite. It is unclear as to how many links there are and which ones are capable of being moved; n could be 19, 20, or even 100.

3. Claim 3 recites the limitation "the body" in line 3. There is insufficient antecedent basis for this limitation in the claim. Furthermore in claim 3, link 28 is not blocked; it still translates with the 15 around axis 17, it is unclear what is meant by blocked and there is no support in the specification.

4. Claims will be examined with the broadest interpretation.

### ***Claim Objections***

5. Claims 4-11 are objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim cannot depend from another multiple dependent claim. See MPEP § 608.01(n). Accordingly, the claims have not been further treated on the merits.

### ***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. Claims 1-3 are rejected under 35 U.S.C. 102(e) as being anticipated by US Pat # 6,824,194 to Weissmueller et al.

Re Claim 1, Weissmueller et al disclose a convertible vehicle (1) with a roof (2) in a rear vehicle area (3) that can be stored below a cover part (4), whereby the cover part (4) can be opened alternatively to release (Figure 5) a loading opening for luggage or to release (Figure 4) a passage opening for the roof (2) and for this reason is held by at least one movement mechanism in the vehicle, characterized in that the movement mechanism comprises at least one multi-link mechanism with an excess number of links (23, 24, 29, 30, 17, 13) for each of the individually named movement directions of the cover part (4), whereby some of these same links are movable both for the movement of the cover part (4) in the direction of release for the loading opening for luggage as well as for the movement in release direction of the passage opening for the roof (2) and in each of the named movements at least one link (17) is blocked. Re Claim 2, Weissmueller discloses the movement mechanism per vehicle side forms a multi-link mechanism with n links, whereby for movement of the cover part in the direction of release of the loading opening for luggage, one link is blocked (17) and n-1 links can be moved with respect to each other and for movement of the cover part (4) in the release direction of the passage opening for the roof (2) another link (17) is blocked and in turn n-1 links can be moved (17 translates in the same manner

as 28 of applicant when the cover is moving). Re Claim 3, Weissmueller discloses the cover part (4) is held only by the multi-link mechanism on the body (See Figures 4 and 5) in any of the movement directions.

***Conclusion***

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. US Pat # 6,250,707 discloses a multilink system for a cover wherein one link is blocked during each operation.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MELISSA A. BLACK whose telephone number is (571)272-4737. The examiner can normally be reached on M-F 7:00-3:30 ET.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn Dayoan can be reached on (571) 272-6659. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Dennis H. Pedder/

Application/Control Number: 10/568,353  
Art Unit: 3612

Page 5

Primary Examiner, Art Unit 3612

/M. A. B./  
Examiner, Art Unit 3612  
3/25/2008